

FACTS

5. Within the last four years, USAA placed calls to Plaintiff's cellular telephone, number 414-xxx-8099, using an automatic telephone dialing system ("ATDS") and/or using an artificial or prerecorded voice.

6. When Plaintiff answered calls from USAA, he heard a prerecorded message stating that the call was from USAA.

7. On April 21, 2015, Plaintiff mailed a letter to USAA. The letter instructed USAA to cease all calls to Plaintiff's cellular telephone.

8. Nevertheless, USAA continued to harass Plaintiff with automated calls.

COUNT I
VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, et seq.

9. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. At all times mentioned herein, Defendant called Plaintiff on his cellular telephone using an ATDS and/or using a prerecorded or artificial voice.

11. Defendant placed automated calls to Plaintiff's cellular telephone despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

12. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

13. Upon information and belief, Defendant's telephone system has the capacity to store numbers in a random and sequential manner.

14. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call

made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

15. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C); and
2. Such other and further relief that the Court may deem just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: July 28, 2015

Respectfully submitted,

By: /s/ Sergei Lemberg

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